HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL No.67 OF 2007

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Between:

Miss. Megha Rani Agarwal

.... Appellant

AND

The Commissioner,
Municipal Corporation of Hyderabad,
Hyderabad & others

.....Respondents

:: J U D G M E N T ::

Counsel for the appellant : Ms. Anali Agarwal

Counsel for respondent Nos. 1 to 3 : Shri G. Rama Rao

Counsel for respondent No.4 : Shri Sharad Sanghi

Dated: 23.01.2007

Per G.S.SINGHVI, CJ

Feeling dissatisfied with the order of the learned Single Judge, who, after taking cognizance of the pendency of the civil suit filed by respondent No.4 – Smt. Aysia Khaton in the Court of VI Junior Civil Judge, City Civil Court, Hyderabad and appeal pending before Chief Judge, City Civil Court, Hyderabad, declined to issue a direction to the authorities of Municipal Corporation of Hyderabad to demolish the alleged illegal construction raised by respondent No.4, the appellant has preferred this appeal.

It is borne out from the record that the appellant had earlier filed Writ Petition No.14402 of 2006 with the prayer that respondent Nos.1 to 3 be directed to take action for demolition of the alleged illegal construction made by Smt.Siddiqui Begum (respondent No.4 in that petition) in house bearing No.21-7-412, Shakkar Kota area. The same was disposed of by the learned Single Judge on 4-8-2006 with a direction to respondent Nos.1 to 3 to initiate appropriate action in accordance with the provisions of Hyderabad Municipal Corporation Act in relation to the unauthorised constructions complained of by the writ petitioner.

In the affidavit filed in support of the second writ petition, which was registered as Writ Petition No.18063 of 2006 and which has given rise to this appeal, the appellant alleged that the disputed construction in H.No.21-7-412, Shakkar Kota,

Charkaman, Hyderabad-2 was being made by Smt.Aysia Khatoon and not by Smt.Siddiqui Begum. She i.e. the appellant reiterated her prayer for issue of direction to respondent Nos.1 to 3 to demolish the illegal construction.

In the counter filed by Smt.Aysia Khatoon (respondent No.4 herein), it was pleaded that the suit property is only
92 square yards and she has raised construction as per G.O.Ms.No.423 dated 31-7-1998. Respondent No.4 further averred that on being threatened by respondent Nos.1 to 3 with the demolition of construction, she filed suit for injunction (O.S.No.4226 of 2006) in the Court of VI Junior Civil Judge, City Civil Court, Hyderabad. She also filed an application for temporary injunction. Initially, the trial court passed an order of status quo, but, later on, the same was vacated. Respondent No.4 preferred appeal against the order of the trial court, which has been registered as C.M.A.No.324 of 2006 and is pending in the Court of Chief Judge, City Civil Court, Hyderabad. The appellate court has passed an order of status quo.

The learned Single Judge held that in view of the pendency of the civil suit and appeal, the writ petitioner can seek her impleadment as party and file applications including the one for appointment of a Commissioner. The learned Single Judge directed the appellate court to dispose of C.M.A.No.324 of 2006 at the earliest point of time, preferably within a period of one month from the date of receipt of the copy of his

order. The trial court has also been directed to dispose of the suit filed by respondent No.4 within a period of three months.

We have heard Ms. Anjali Agarwal, learned counsel for the appellant, Shri G. Rama Rao, learned counsel for Municipal Corporation of Hyderabad and Shri Sharad Sanghi, learned counsel for respondent No.4 at some length. In our opinion, the order under challenge does not suffer from any patent legal error warranting interference under Clause 15 of the Letters Patent.

The appellant has not disputed the pendency of O.S.No.4226 of 2006 filed by respondent No.4 and the fact that Chief Judge, City Civil Court, Hyderabad has passed an order of status quo in C.M.A.No.324 of 2006. Therefore, we do not have the slightest hesitation to observe that the learned Single Judge rightly declined to entertain her prayer for ordering demolition of the property in dispute and at the same time settled the equities by directing the learned Chief Judge to dispose of C.M.A.No.324 of 2006 within one month and the trial judge to dispose of the main suit within three months and also permitting the petitioner to get herself impleaded as party in the proceedings of the civil suit as well as the C.M.A. It is beyond comprehension as to how the High Court can order demolition of the construction made by respondent No.4 ignoring the order of status quo passed by the Chief Judge, City Civil Court. That would amount to clear negation of the sanctity of judicial orders.

Hence, the appeal is dismissed. The parties are left to bear their own costs.

Needless to say that if the injunction application filed by respondent No.4 is vacated and higher Court does not entertain her request for further injunction, the authorities of the Municipal Corporation shall have to take action in accordance with law to deal with the so-called illegal construction raised by respondent No.4.

As a sequel to dismissal of the writ appeal, W.A.M.P.No.104 of 2007 filed by the appellant for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

23.01.2007

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